

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BILL WISSER,

Plaintiff,

- against -

RESY NETWORK, INC.

Defendant.

Docket No. 1:17-cv-7491

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Bill Wisser (“Wisser” or “Plaintiff”), by and through his undersigned counsel, as and for his Complaint against Defendant Resy Network, Inc. (“Resy” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of a copyrighted photograph of a Ceviche a popular seafood dish at a Miami restaurant called Coya, owned and registered by Wisser, a Miami based photographer. Accordingly, Wisser seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in and/or is transacting business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Wisser is a professional photojournalist having a usual place of business at 565 NW 44th Street, Miami, Florida 33127.

6. Upon information and belief, Resy is a foreign business corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 315 Park Avenue South, 16th Floor, New York, New York 10010. Upon information and belief, Resy is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Resy has owned and operated a website at the URL: www.Resy.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

7. Wisser photographed Ceviche a popular seafood dish at a Miami restaurant called Coya (the “Photograph”). A true and correct copy of the Photograph is attached hereto as Exhibit A.

8. Wisser is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

9. The Photograph is registered with the United States Copyright Office and given registration number of VA 2-061-261.

B. Defendant’s Infringing Activities

10. Upon information and belief, Resy copied the photograph and put it on their Website. See <https://blog.resy.com/resy-miami-hit-list-2/>. The Website prominently featured the

Photograph. A true and correct copy of the Photograph on the Website is attached hereto as Exhibit B.

11. Resy did not license the Photograph from Plaintiff, nor did Resy have Plaintiff's permission or consent to publish the Photograph on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST RESY)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. Resy infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on its Website. Resy is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by Resy have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

16. As a result of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover his damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant India be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
September 30, 2017

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